IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 248 OF 2005

Premanand S. Verenkar. ... Petitioner

versus

The State of Goa through
its Chief Secretary and
others. ... Respondents

Mr. R. G. Ramani, Advocate for the Petitioner.

Mr. S. R. Rivonkar, Government Advocate for the State/
Respondent Nos.1 and 2.

CORAM : R. M. LODHA &
N. A. BRITTO, JJ.

DATE : 23RD AUGUST, 2005.

P.C.:-

Heard Mr. R. G. Ramani, the learned Counsel for the Petitioner and Mr. S. R. Rivonkar, the learned Government Advocate for Respondent Nos. 1 and 2.

The controversy in this Petition pertains to a piece of land admeasuring 853 sq. mts. of survey no.169/0 or 169/1 in the approved sub-division of the property situated at Durgabhat, Ponda. The grievance of the Petitioner is that the said plot is an open space and could not be used for any other purpose including the road.

From the available material, it appears that the Chief Officer, Ponda Municipal Council initially issued notice dated 15th July, 2003 to the present Respondent No.5 under Section 184 of the Goa, Daman & Diu Municipalities Act, 1968 and thereafter passed an Order on 4th August, 2003. Aggrieved by the said Order, the present Respondent No.5 preferred an Appeal before the Municipalities Appellate Tribunal at Goa, Panaji. It transpires from the record that the Municipalities Appellate Tribunal at Goa, Panaji, set aside the Order of 4th August, 2003 and remitted the matter back to the Chief Officer of Ponda Municipal Council for fresh decision.

The learned Counsel for the Petitioner contended before us that after the remand, the matter has been pending

before the Chief Officer of Ponda Municipal Council for quite some time and no final decision has been taken by the Chief Officer of Ponda Municipal Council.

Though, in the Petition, the Petitioner has prayed for an issuance of a writ of mandamus or a direction to the Respondents to restore the land admeasuring 853 sq. mts. in the open space from survey no.169/0 or 169/1, the learned Counsel for the Petitioner confined his prayer to the direction to the Respondent No.4 for expeditious disposal of the proceedings pursuant to the remand Order of the Municipalities Appellate Tribunal.

In view of the prayer made by the learned Counsel for the Petitioner which in our opinion is innocuous, the notice to the unrepresented Respondents is not necessary and we dispose of the Petition by the following Order:

ORDER

> The Chief Officer of Ponda Municipal Council shall consider the matter concerning alleged encroachments on plots from 169/0 or 169/1 and pass appropriate order after hearing

the Respondent No.5 as expeditiously as possible and preferably within four months from the date of receipt of the certified copy of this Order".

R. M. LODHA, J.

N. A. BRITTO, J.

RD.